MALAYSIAN REPORTS

SYED OMAR BIN ABDUL RAHMAN TAHA ALSAGOFF & ANOR. v. GOVERNMENT OF THE STATE OF JOHORE

[F.C. (Suffian L.P., Ali and Wan Su'eiman F.JJ.) January 16, 1975]

[Johore Bahru — Federal Court Civil Appeal No. 88 of 1974]

Land Acquisition — Whether acquisition proceedings null and void — Purposes for which land needed — Declaration conclusive evidence that land needed for the purpose specified therein — Land Acquisition Act, 1960, ss. 3, 7 and 8.

This was an appeal against the order of the High Court which had dismissed the appellants' application for a declaration that the acquisition proceedings in respect of their lands were illegal and therefore null and void.

Held, dismissing the appeal: the declaration issued under section 8 of the Land Acquisition Act in this case was conclusive evidence that the lands referred to therein were needed for the purpose specified therein and therefore there was no merit in the contention that the acquisition proceedings were null and void.

Cases referred to:-

(1) *Midnapur Zamindari Co. Ltd.* v. *Bengal Nagpur Railway Co. Ltd.* A.I.R. 1941 Cal. 465.

(2) *Donaldson* v. *South Shields Corporation* (1899) 68 L.J. Ch. 162.

(3) *Calcutta Improvement Trustees* v. *Ghosh* A.I.R. 1920 P.C. 51.

The following cases were also cited in argument: *Gajendra Sahu & Ors.* v. *Secretary of State for India in Council* (1908) 8 C.L.J. 39; *M/s Tinsukia Development Corporation Ltd.* v. *State of Assam & Anor.* A.I.R. 1961 Assam 133, p. 144 para. (23); *Abdul Jabbar & Anor.* v. *State of W. Bengal & Ors.* 71 C.W.N. p. 134, para. 6(b)(ii) & 2nd para.; *Midnapur Zamindan Co. Ltd.* v. *Bengal Nagpur Pty. Co. Ltd.* A.I.R. 1941 Calcutta 465; *Secretary of State for India in Council* (1913) 18 C.L.J. 244; *Veeraraghavachariar* v. *Secretary of State* I.L.R. 49 Mad. 837; *Wijaiya Sekhara* v. *Fosting* [1919] A.C. 646.

FEDERAL COURT.

Upali Masacorale (Miss *Walsh* with him) for the appellants.

Datuk Haji Mohamed Eusoff bin Chin (State Legal Adviser, Johore) for the respondent.

In the court below (Johore Bahru — Originating Motion No. 4 of 1972) Syed Othman J. delivered the following judgment on June 3, 1974:

Syed Othman J.: The questions to be determined in this application are:

(1) Whether the acquisition of some lands under *Johore Gazette* Notification (G.N.) 55 of 1971 is invalid by reason of the fact that they were shown to be within a "special area" in the plan referred to in the G.N. for inspection and not for purposes mentioned in the declaration;

(2) Whether all lands under the G.N. are acquired in bad faith by reason, it is said that the Government is acquiring land more than its actual needs;

(3) Whether the acquisition proceedings are bad because the declaration in the G.N. does not bear the name of the person who held the office of the Commissioner of Lands and Mines.

The applicants at first seek a declaration that the acquisition proceedings by the Johore Government of their lands in the Mukim of Plentong, District of Johore Bahru are illegal on the ground that they are not for the declared purpose of a port, housing and industry, as on inspecting a plan referred to as available for inspection they found that these lands were within an area marked "keguna-an khas" (special use).

The declaration of acquisition reads:—

"No. 55

UNDANG2 PENGAMBILAN TANAH, 1960
BORANG D.
Perishtiharan Hendak Mengambil Tanah
(Sekshen 8)

Dengan ini di-ishtiharkan bahawa tanah dan kawasan yang di-tentukan dalam Jadual di-bawah ini di-kehendaki maksud: Pembenaan Pelabohan, Perumahan dan Perusahaan.

2. Pelan tanah dan kawasan yang di-tentukan boleh di-pereksa di-Pejabat Tanah dalam Daerah tempat tanah dan kawasan itu terletak, pada masa bekerja biasa.

Bertarikh pada 18hb Januari, 1971
(PTG.J(R) Bil. 1: PHTJB.7/2/70).

PESUROHJAYA".

The first applicant in his affidavit complains that he has developed 3 pieces of his land as a beach and a holiday resort by building chalets, a restaurant and other amenities to attract tourists, he has obtained a first class hotel licence in 1969, but his application for converting this land from agricultural to building use has met with no response.

The second applicant complains that his lands have been in the family for forty years, his family derived their livelihood from them, and the compensation awarded was minimal and which he has accepted under protest.

The Pengarah, Tanah & Galian (Director of Lands and Mines) in his affidavit of July 13, 1972 says in effect that the plan was merely to show the boundaries of the lands to be acquired and should not be taken to show that the particular portions of lands are required for purposes other than those stated in the gazette notification.

The State Planning Officer in his affidavit says that when the State Government was in the process of acquiring lands for the purposes mentioned, he prepared a draft layout plan for the proposed port and town in the area; he did this at the request of the State Development Officer by a letter of April 2, 1970; in preparing the draft layout of the area he proposed the zones for port, heavy industry, medium industry, light industry and housing; as regards the "special area", he zoned approximately 385 acres for special purposes which include recreation such as beaches for swimming, boating, picnic areas, camping sites, hotels, chalets and shops"; his proposal for this "special area" was not intended to show the purpose of the acquisition of the area; in any case, his proposal was not accepted by the Government; he has submitted another proposal which shows that the "special use" is now for shipyard and heavy industry, (as per plan attached to the affidavit), and this has been approved by the Government.

The applicants in their affidavits in reply contend that the State Government cannot acquire land merely on a draft plan, that the plan referred to in the ac-

quisition declaration form could only be the plan submitted to the State Authority under section 7(a) of the Land Acquisition Act, 1960, and it therefore follows that the notification in Form D was erroneous, since the notification reads "Pelan tanah dan kawasan yang di-tentukan itu" (a plan of the land and area ascertained).

The other parts of the affidavits in reply question the *bona fide* of the Government in the whole acquisition proceedings as from the affidavit of the State Planning Officer the State Development Officer instructed him by letter of April 2, 1970 to prepare a layout plan covering an area of 2,000 acres only. It is therefore alleged that the Government in acquiring land far in excess of its requirements — 5,713 acres as against 2,000 acres proposed by the State Development Officer.

I think it is necessary to go through the relevant provisions of the Land Acquisition Act, 1960. Section 7 provides that when any lands are needed for any of the purposes in section 3, the Collector shall prepare and submit to the State Authority a plan of the whole area of such lands showing the particular lands or parts thereof; he shall also prepare a list of the lands. By section 8 when the State Authority decides to acquire any of the lands, a declaration in form D must be published. It is a matter for the State Authority to decide which lands in the Collector's list are needed. The State Authority may amend the list. But the list amended or not must be included in a schedule to that declaration in form D. By section 8(3) the declaration is conclusive evidence that the lands in the schedule are needed for the purposes specified therein. The form followed by the Commissioner was the Bahasa version of form D in the Schedule to the Act.

Question 1

Paragraph 1 of G.N. 55 of 1971, in my view, is the crucial part. It contains the substance in that it declares that all the lands are required for the construction of a port and for residential and industrial purposes. Paragraph 2, I should say, is merely supplementary to paragraph 1. It is unfortunate that the Commissioner should have used a draft layout plan which was not approved by the Government and showing the zoning of areas which did not correctly reflect the intention of the Government. The Commissioner says that the plan should not be taken to show that the lands are required for other than the declared purposes. But that is all the more reason that the plan should not have been used at all for inspection. I fail to understand why a plan showing the boundaries of the areas affected could not have been used. The plan which should have been used was the plan which the Collector submitted under section 7, as amended if need be, in accordance with section 8, in reference to the list of lands to be acquired. No reason has been given as to why this plan was not used. The State Planning Officer says another plan approved by the Government shows that the applicants' lands are within the area for a shipyard and heavy industry. No reason has been given as to why this plan was not used for inspection. I have no doubt the plan for inspection was put up by mistake and which should not have occurred at all. But I cannot see anything in law which prevents a mistake from being corrected. In land acquisition proceedings, a mistake may occur in the description of the land or the portion of land to be acquired or in the name of the owner. Such a mistake is always curable. Similarly the use of a wrong plan for inspection as referred to in a *Gazette* Notification can always be corrected by putting up the correct plan. Even if this was not done, in my view, the material or substantive part of the declaration is in paragraph 1 of the *Gazette* Notification; it clearly indicates that the applicants' lands are in the list of lands needed for public purposes mentioned in the notification. I am also of the view that paragraph 2 which relates to the plan is merely procedural and on the principle of *falsa demonstratio non nocet*, the plan referred to in paragraph 4 cannot be taken as restricting or nullifying the effect of the declaration in paragraph 1 of the G.N. (see *Midnapur Zamindari Co., Ltd.* v. *Bengal Nagpur Railway Co. Ltd.*,[1] page 156 Compulsory Acquisition of Land in India 4th Edn. by Om Prakash Aggarawala). In the case here it should have been obvious to the applicants that there must have been a mistake, and I cannot see any reason why they could not have made enquiries from the Commissioner when they first saw the plan. I therefore find that the mistake in the plan put up for inspection does not invalidate the acquisition of applicants' land.

Question 2

It is contended that the Government is acquiring the lands in bad faith, as it is acquiring lands far in excess of the need for the public purposes mentioned in the G.N. which is said to be 2,000 acres. The total area the Government has acquired under the G.N. is 5,713 acres. The explanation of the Government's side is that 2,000 acres reflect only the exact need which does not include incidentals e.g. roads, drains, open space, gardens and vehicle parks. I think it should be common knowledge that more lands are used than their exact needs. If a person wants to build for himself a dwelling house of say 30 feet by 70 feet he requires more than what it is exactly intended for the house, so as to allow himself a patch of garden or to be some distance away from his neighbours. For this I think, he would require a piece of land at least 6,000 square feet which is about three times more than the exact area required for the house. Similarly in acquiring land, say, for a school, the building itself usually occupies an acre, but the Government does not acquire exactly that one acre. The Government will have to acquire at least 5 acres so that there may be a canteen, playground etc. for the children. And in acquiring land for a road, I do not think it would be good sense to acquire just the bare width of the road to be built, without taking into account the side-table, the drain to be built, cables and water pipes to be laid alongside the road, and also the future widening of the road itself with the increase in traffic. The law allows for these incidentals. The relevant portion of section 30 of the Interpretation and General Clauses Ordinance, 1948 reads:—

"Where a written law confers power on any person to do ... any act or thing, all such powers shall be understood to be also conferred as are reasonably necessary to enable the person to do ... the act or thing."

In the case here, the Government is building a new industrial town with a port. It cannot be denied

that all this is for the public good and not for the benefit of a few individuals. The Government has said that all the lands are required for the purposes declared in the notification. I do not think it is desirable to take the Government to task by requiring it to account for every inch of the lands it is acquiring. The applicants should show more than what they have shown in order to establish bad faith. The onus is on them and it is a heavy one. On the evidence shown in the present case, they have not shown any bad faith on the part of the Government.

Apart from that, the applicants here are relying on what transpired in the planning stage in 1970. From the affidavits by the Government side the proposal for the 2,000 acres was by the State Development Officer in April, 1970. It is clear from what transpired afterwards that the State Authority itself was of the mind that more lands were needed. And hence the declaration of 5,713 acres which was made in June, 1971. The plan relied upon by the applicants themselves clearly shows that except for the 385 acres other areas are within the declared public purposes. On this ground by itself, they are not entitled to question acquisition of other areas.

Question 3

In the course of argument counsel for the applicants also points out that as the declaration in the *Gazette* Notification does not bear the name of the officer who held the office of Commissioner of Lands and Mines, the whole of the acquisition proceedings are, therefore, it is said, invalid. To this I need only say it is undesirable for counsel to raise at the stage of arguments in a motion, issues which are not deposed in the affidavit, or referred to in the motion. Notice is required so as to give the other side an opportunity to reply to the issues. If indeed the Commissioner did not sign the declaration then it is a matter for the applicants to secure an affidavit from him to that effect. The onus is on them. This they have not done. Ordinarily I would stop here and refuse to deal with the matter. But the Government side has indicated that original was in fact signed and copies in the relevant file bear the initials of the Commissioner. If it had not been signed, the Government Printer, would not have published the notification; and the practice of the printer is that if the signature is illegible he will only print the title of the office omitting the name of the officer; the printer is unable to produce the original as most of his unwanted papers were destroyed when the printing office moved to another premises. I accept the explanation, but I feel that the Commissioner should have shown his name in print under his signature as required by some government direction. As a matter of law, there is no provision in the Act which appears to require that the declaration, which in law is the act of the State Authority, must be signed by the Commissioner. In contrast, under section 6(1) of the Indian Land Acquisition Act, 1894 (the equivalent of our section 8), there is a specific requirement that a declaration of acquisition shall be made under the signature of a Secretary to the appropriate Government or some officer duly authorized to certify its orders. Whatever may be said of the omission to insert the Commissioner's name in the G.N. there is nothing to show that the State Authority does not in fact need the lands for the purposes declared in the notification or that the applicants were misled by the omission. The applicants themselves all along admit to the fact of acquisition. In the circumstances of this case, I do not consider the omission affects the validity of the acquisition.

As to the complaints of the applicants which I have set out above, I need only say that their private interests in or sentimental attachments to their lands cannot override public needs. There are other areas where they can develop their private interests and give new attachments with the compensation which they have received from the Government for the acquisition. If they are dissatisfied with the amount given they should seek redress in the appropriate manner.

The application is dismissed with costs to the respondent.

From the above judgment the applicants appealed to the Federal Court. The judgment of the Federal Court was delivered by Suffian L.P.:

Suffian L.P.: On 21st January, 1971, the Johore State Government published in the *Gazette* under section 8 of the Land Acquisition Act No. 34 of 1960 a declaration in Form D, the English translation of which reads as follows:

"Land Acquisition Act, 1960
Form D

DECLARATION OF INTENDED ACQUISITION
(Section 8)

It is hereby declared that the particular lands and areas specified in the Schedule hereto are needed for the following purposes:

Construction of harbour, housing and industry.

2. A plan of the particular lands and areas so specified may be inspected during the normal hours of business in the Land Office of the District in which such lands and areas are situated.

Dated this 18th day of January, 1971.

Commissioner."

The schedule to the above declaration enumerates the lots to be acquired, including four lots belonging to the first applicant and three lots to the second applicant.

The applicants applied on June 4, 1972, by notice of motion for a declaration that the acquisition proceedings in respect of their lands were illegal and therefore null and void. They cited the State Government of Johore as respondent.

On June 3, 1974, the learned judge ruled against the applicants.

The applicants have appealed to us.

The question for our determination is the same as that before the learned judge, namely, whether or not these acquisition proceedings were illegal, as contended by the applicants.

The argument that the acquisition proceedings were null and void is as follows.

It is contended by the applicants that Government may compulsorily acquire lands belonging to the subject if, but only if, Government comply strictly with the Act. This is not denied by Government.

Section 3 specifies the purpose for which the State Authority may compulsorily acquire lands. It says —

"The State Authority may acquire any land which is needed —

(a) for any public purpose; or

(b) by any person or corporation undertaking a work which in the opinion of the State Authority is of public utility; or

(c) for the purpose of mining or for residential, *agricultural, commercial* or industrial purposes."

(The words italicized were added by section 2 of Act No. A216 of 1973, but nothing turns on them.)

Section 7 of the Act provides as follows:

"7. Whenever any lands are needed for any of the purposes referred to in section 3 the Collector shall prepare and submit to the State Authority —

(a) a plan of the whole area of such lands, showing the particular lands, or parts thereof, which it will be necessary to acquire; and

(b) a list of such lands, in Form C."

Section 8 provides as follows:

"8 (1) When the State Authority decides that any of the lands referred to in section 7 are needed for any of the purposes referred to in section 3, a declaration in Form D shall be published in the *Gazette.*

(2) A copy of the list of lands referred to in paragraph (b) of section 7, amended, if necessary, in accordance with the decision of the State Authority, shall be included as a schedule to the declaration in Form D.

(3) A declaration in Form D shall be conclusive evidence that all the scheduled land referred to therein is needed for the purpose specified therein."

It is said that the declaration under section 8 does not say that the lands were needed for a public purpose. This is true and it is said that therefore purpose (a) specified by section 3 (which would have been all-embracing) does not arise. This is not denied by Government.

It is said that under section 7, unlike the Indian Government acting under the corresponding Act in India, the Johore Government is obliged to prepare a plan of the lands to be acquired.

It is said that paragraph 2 of the declaration gazetted under section 8 is a vital part of the declaration. But, it is further said, when the applicants went to inspect the plan they knew that the lands were needed for three purposes, namely, for a harbour, for housing and for industry; they (the applicants) wanted to find out for which particular purpose their own lands were being acquired; they found that lands intended for the harbour, for housing and for industry were clearly demarcated but their lands were not demarcated for any of these three purposes, but instead they were marked for "kegunaan khas" (special purpose) which was not a purpose enumerated in section 3; and as their lands were not needed for any of the purposes authorised by section 3, the intended acquisition was null and void. For good measure the applicants alleged that therefore the State Government was acting *mala fide.*

With all due respect we do not think there is any merit in the contention that these acquisition proceedings were null and void.

It is true that section 7 requires the Collector to prepare and submit a plan to the State Authority, but this is for the purpose of showing the particular lands or parts thereof which it will be necessary to acquire, and so the plan is for the convenience of the State Government. After study of this plan, Government may decide that all the lands shown on it are needed, or only some of them, or only some of them and part or parts of others.

Only after the State Authority has *decided* which of the lands referred to in the plan and to what extent, are needed for any of the purposes set out in section 3, is it necessary for a declaration in Form D to be gazetted under section 8. With respect, we agree with the learned judge that the meat of this declaration is contained in its first paragraph, for while it is true that its second paragraph refers to a plan, that is only to enable owners and other interested persons to check whether or not their lands are to be acquired and if so to what extent. Section 8 does not require that the purposes for which the lands or parts are to be acquired, should be stated on the plan, and it would appear that it was quite unnecessary for — and in the event foolish of — the State Authority to invite the applicants and other owners to inspect the rather elaborate plans prepared in the instant case. All that section 8 requires (by its subsection (2)) is that a *list* of the lands or parts thereof that are needed by the State Authority be included in a schedule to Form D. That was done here, and so in our view the declaration in that Form in the words of subsection (3) of section 8 is "conclusive evidence that all the scheduled [lands] referred to therein [are] needed for the purpose specified therein".

In view of our construction of section 8, we do not think that the fact that the applicants' lands were marked "kegunaan khas" affects the issue, for the matter is governed by the first paragraph of Form D which clearly states the purposes for which all the lands shown on the plan were to be acquired. In any event, the plans here (there are two) are headed in large letters "Rancangan Pelabohan" (Proposed Harbour), and this heading is all-embracing and describes clearly the purpose for which the lands on it were to be acquired and the words "kegunaan khas" attached to the applicants' lands merely detail the particular use to which they will be put within the proposed harbour area.

It is also argued that a letter exhibit D7 dated April 2, 1970, from the State Development Officer to the State Planning Officer shows that the total area required was only 2,000 acres whereas almost 6,000 acres were acquired, and that this shows *mala fides* on the part of the State Government. One case was cited in support of this argument: *Donaldson* v. *South Shields Corporation*[2] which was cited with approval by the Privy Council in *Calcutta Improvement Trustees* v. *Ghosh.*[3]

With respect we do not think there is any merit in this argument.

Under our Land Acquisition Act, the decision as to the lands and how many acres are needed has to be made by the Ruler, not by the State Development Officer, but it is quite natural that before the Ruler

finally makes his decision he should first consult the State Development Officer and other civil servants. The views of these latter officers while valuable do not invalidate the final decision of the Ruler as to the lands and the total acreage needed.

With respect we do not think that *Donaldson's* case helps the applicants in any way. There the South Shields Corporation were authorised by a private Act of Parliament to make certain "street works" within the limits of lateral deviation shown on their deposited plans; and to take "for the purpose of the street works the lands shown on the deposited plans in connection therewith and which they may require for the purposes thereof respectively". The corporation claim that under the Act they were authorised to take the whole of a property belonging to the plaintiff, of which only a portion was shown as within the line of lateral deviation on the deposited plans, and they wrote to her solicitors that "such portion of the property as may not be actually required to be added to the street the corporation required to take in order that they may possess the frontage to the street, and sell the same so as to recoup themselves in part of the cost of the improvement." It was held by the English Court of Appeal that the Act did not confer a power to take land not wanted for street works but wanted simply for the purpose of diminishing the expense of the works by reselling it at a profit.

That case is distinguishable from the present in two ways. First, there is no question here of the Johore Government reselling any of the lands stated to be needed. Second, in that case there is no provision similar to our subsection (3) of section 8.

The Privy Council case mentioned, while not exactly in point, is also in our opinion against the applicants' contention here. There the Calcutta Improvement Trustees (referred to as the Board) acquired lands under the Calcutta Improvement Act, 1911. Section 42 thereof states that a road widening scheme initiated by the Board may provide for the acquisition by the Board of any land in the area comprised in the scheme which will in their opinion be *affected* by the execution of the scheme. The Board purported to acquire the land of Mr. Ghosh not because it was actually required for the scheme, but simply because in the opinion of the Board the land would be enhanced in value by its execution. Their Lordships cited with approval *Donaldson's* case but held: reversing the decision of two lower courts, that the Board had power under section 42 to so acquire Mr. Ghosh's land, even though it was not actually required for the scheme that the Board had in mind, because it would be enhanced or diminished in value by the scheme and therefore it would be land which would be affected by the execution of the scheme.

Though the Johore State Government had written "kegunaan khas" against the applicants' lands, finally they were acquired for a shipyard and it is argued that this change of intention on the part of Government also invalidates the acquisition proceedings. With respect we do not think that there is any merit in this argument either, for use as a shipyard is still use for an industrial purpose, which is specified in the first paragraph of Form D.

People are sentimentally attached to their lands and we are of course sorry for the applicants, but we regret that the law is clearly on the side of Government and we would therefore dismiss their appeal with costs. Their deposit to go to the respondent Government against their taxed costs.

Appeal dismissed.

Solicitors: *Jackson & Masacorale.*

CHOO AH PAT v. CHOW YEE WAH & ANOR.

[F.C. (Gill C.J. (Malaya), Ali and Ong Hock Sim F.JJ.) January 20, 1975]

[Kuala Lumpur — Federal Court Civil Appeal No. 147 of 1973]

Personal Property — Joint account opened by deceased with first defendant for the benefit of his wife — Whether deceased was of sound mind at time cheque drawn up — Fraud — Whether authority given by deceased revoked by his subsequent mental condition — Rule of survivorship — Express trust.

In this case the deceased had prior to his death drawn a cheque for $60,384.80 and paid it into a joint account which he opened in his name and the name of the first defendant for the benefit of his common law wife. The questions that arose for consideration in the case were (1) whether or not the deceased was in full possession of his mental faculties when his thumbprints were affixed to the said cheque and documents; and (2) whether the presumption of a resulting trust was rebutted as there was a valid trust in this case. The learned trial judge answering both questions in the affirmative dismissed the appellant's claim to recover the money as administratrix of the estate of the deceased. (See [1974] 1 M.L.J. 62). The appellant appealed.

Held, allowing the appeal: (1) the facts in this case showed that the deceased was not in full possession of his mental faculties when his thumbprints were affixed to the cheque and other documents;

(2) in view of the uncertainty of the deceased's intention in this case there was no evidence of an express trust to rebut the resulting trust which arose.

Cases referred to:-

(1) *Standing* v. *Bowring* (1866) 31 Ch. D. 282, 287.
(2) *Cosnahan* v. *Grice* 15 E.R. (P.C.) 476, 479.
(3) *Russell* v. *Scott* (1936) 55 C.L.R. 440.
(4) *Milroy* v. *Lord* 45 E.R. 1185.
(5) *Mussoorie Bank* v. *Raynor* (1882) 7 App. Cas. 331.

FEDERAL COURT.

R. R. Chelliah (*Joginder Singh* and *G. Sri Ram* with him) for the appellant.

M. Shankar for the first respondent.

Chan Siew Yoon for the second respondent.

Ali F.J.: The appellant is the administratrix of the estate of her deceased son, Loke Aik Hoe @ Loke Yauk Hoh @ Loke Yauk Hoe, who died in the General Hospital, Kuala Lumpur, on July 24, 1967. The first respondent is deceased's brother-in-law and the second respondent is a banking corporation with its head office and sub-branch in the city of Kuala Lumpur, at Jalan Bandar and at Jalan Pasar respectively. At all material times the officer in charge of the sub-branch bank was Kwan Mun Koh, a defence witness in this case.

Before he was admitted to the hospital on July 13, 1967 the deceased was living in a rented flat with a woman named Chan Yoke Ying, another defence